

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

<b>UNITED STATES OF AMERICA</b>	)	Civil Action No. 1:18-CV-0552 (TJM/CFH)
Plaintiff	)	
<b>v.</b>	)	
	)	
\$15,290.00 in U.S. Currency	)	
	)	
<b>Defendant.</b>	)	

**VERIFIED COMPLAINT OF FORFEITURE *IN REM***

Plaintiff, United States of America, by its attorneys, Grant C. Jaquith, United States Attorney for the Northern District of New York, and Tamara B. Thomson, Assistant United States Attorney, brings this complaint and alleges as follows in accordance with Supplemental Rule G(2) of the Federal Rules of Civil Procedure.

**NATURE OF ACTION**

1) This is an action to forfeit and condemn to the use and benefit of the United States of America the following currency: \$15,290.00 in U.S. Currency in violation of Title 21, United States Code, Sections 841 and 846.

**THE DEFENDANT IN REM**

- 2) The defendant currency \$15,290.00 (“defendant currency”) was seized from Randolph X. Andino on October 29, 2017, on Interstate 87 near Coxsackie, in Greene County, New York.
- 3) The defendant currency is presently in the custody of the United States Marshal Service in Syracuse, New York.

### **JURISDICTION AND VENUE**

4) Plaintiff brings this action *in rem* in its own right to forfeit and condemn the defendant currency. This Court has jurisdiction over an action commenced by the United States under 28 U.S.C. § 1345, and over an action for forfeiture under 28 U.S.C. § 1355(a).

5) This Court has *in rem* jurisdiction over the defendant currency under 28 U.S.C. § 1355(b). Upon the filing of this complaint, the plaintiff requests that the Court issue an arrest warrant *in rem* pursuant to Supplemental Rule G(3)(b), which the plaintiff will execute upon the property pursuant to 28 U.S.C. § 1355(d) and Supplemental Rule G(3)(c).

6) Venue is proper in this district pursuant to 28 U.S.C. §§ 1355 and 1395, because the acts or omissions giving rise to the forfeiture occurred in this district.

### **BASIS FOR FORFEITURE**

7) The defendant currency is subject to forfeiture pursuant to 21 U.S.C. § 881(a)(6).

21 U.S.C. § 881(a)(6) provides for the forfeiture of:

all moneys, negotiable instruments, securities, or other things of value furnished or intended to be furnished by any person in exchange for a controlled substance or listed chemical in violation of 21 U.S.C. §§ 801 et seq., all proceeds traceable to such an exchange, and all moneys, negotiable instruments, and securities used or intended to be used to facilitate any violation of 21 U.S.C. §§ 801, *et seq.*

*Id.*

### **FACTS**

8) The facts alleged in this complaint are based upon information and belief, the sources of which are reports from the Federal Bureau of Investigation (“FBI”), and other written and oral information officially received by the Office of the United States Attorney for the Northern District of New York.

9) On or about October 29, 2017, a New York State Police Officer (NYSP) observed a gold 2004 Honda Odyssey vehicle on I-87 northbound in the Town of Coxsackie, Greene County, with two children in the backseat, not wearing seat belts. The NYSP Officer activated his emergency lights and observed the two children attempting to place seat belts on as he stopped the vehicle. The operator of the vehicle was identified as Randolph X. Andino (hereinafter “Andino”) of Troy, New York, and the front seat passenger was Pedro Guerrero (hereinafter “Guerrero”).

10) Upon interviewing the Andino and Guerrero, separately, it was revealed that Andino did not know Guerrero’s name. Further, the two men provided conflicting information as to where they were coming from and why they were in New York City.

11) The NYSP officer discovered that Andino was on state parole for criminal possession of a controlled substance 3<sup>rd</sup> degree, and was traveling back from New York City, outside his assigned county, without a valid travel permit from his parole officer.

12) The NYSP officer requested permission to search the vehicle. Andino denied having anything in the vehicle, including currency. After receiving consent to search the vehicle, the NYSP officer utilized a certified drug-detection canine who alerted to a black Nike sneaker box in the trunk of the vehicle. The box contained 8 rubber-banded bundles of U.S. Currency. Andino was interviewed and stated that it was around \$15,000 in U.S. Currency and that he had saved it from working to purchase a vehicle. Andino later stated that he saved the money by working even though he had been released from New York State DOCCS custody to Parole on July 11, 2017, only 3 months prior to the stop.

13) Andino changed his story multiple times and stated that he saved some of the money, while borrowing the remainder from his mother and sister to purchase a vehicle. Andino advised that he

traveled to the New York City area to see his sick mom and to look at a vehicle but the dealer would not take \$15,000 for the vehicle.

14) When asked, Andino could not provide the name of the dealership where he looked at the vehicle and gave two different street addresses for its location.

15) Andino has lengthy criminal history beginning in 1999, his most recent convictions are:

a) November 20, 2010: Andino was arrested and charged in Troy City Court with Criminal Possession Controlled Substance in the 3<sup>rd</sup> degree; Criminal Possession Controlled Substance in the 3<sup>rd</sup> degree intent to sell; Criminal Possession Controlled Substance, Narcotic; and Criminal Possession of a Weapon in the 3<sup>rd</sup> degree. Andino was convicted upon a plea of guilty on September 26, 2011, and sentenced to 6 to 7 years. Andino was released on July 11, 2017 to NYS DOCCS.

b) December 9, 2005, Andino was arrested and charged by Troy City Police with Criminal Sale of Controlled Substance in the 3<sup>rd</sup> degree. Andino was convicted upon a plea of guilty of Criminal Sale of Controlled Substance in the 5<sup>th</sup> degree and was sentenced to 18 months with one year of post release supervision.

16) On February 23, 2018, Troy City Police Officers responded to assist in a search for a subject involved in a domestic incident. Officers observed a male matching the description of the subject involved in the domestic dispute walking northbound on Oakwood Avenue in the area of H & V collision. As the Officers were pulling up to the subject, identified as Randolph X. Andino, was observed throwing an object to the ground. An assisting officer picked up the object, which was a paper towel and inside was a clear plastic bag containing a white chunk like substance. The chunk like substance tested positive for cocaine. Andino was arrested and charged with Possession

of a Controlled Substance in the 3<sup>rd</sup> degree and Possession of a Controlled Substance in the 5<sup>th</sup> degree.

**POTENTIAL CLAIMANTS**

17) On or about February 7, 2018, the Federal Bureau of Investigation received an administrative claim from Trevor W. Hannigan, Esq. on behalf of Randolph X. Andino for the defendant currency.

18) Upon information and belief, the following person/s who may claim an interest in the defendant vehicle are not in the military service, are not infants and are not incompetent persons

**WHEREFORE**, the United States of America prays that process of issue in due form of law, according to the course of this Court in actions *in rem*, against the defendant currency and that a warrant issue for the arrest of the defendant as more particularly described herein; that all persons having any interest therein be cited to appear herein and answer the complaint; that a judgment be entered declaring the defendant condemned and forfeited to the United States of America for disposition in accordance with law; that the costs of this suit be paid to and recovered by the United States of America; and that the United States be granted such other and further relief as this Court may deem just and proper.

Dated: May 8, 2018

GRANT C. JAQUITH  
United States Attorney

By: /s  
Tamara B. Thomson  
Assistant United States Attorney  
Bar Roll No. 515310

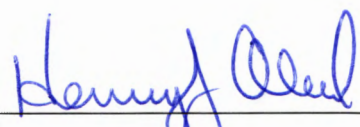
**VERIFICATION**

STATE OF NEW YORK                    )  
  ) ss:  
COUNTY OF [ALBANY]                )

Henry J. Abeel, being duly sworn, deposes and states:

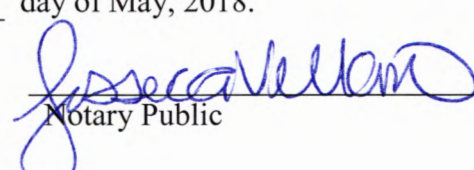
I am a Task Force Officer with the Federal Bureau of Investigation. I have read the foregoing Complaint for Forfeiture and assert that the facts contained therein are true to the best of my knowledge and belief, based upon knowledge possessed by me and/or on information received from other law enforcement officers.

Dated this 8TH day of May, 2018.

  
\_\_\_\_\_  
Henry J. Abeel, Task Force Officer  
Federal Bureau of Investigation

||

Sworn to and subscribed before me this 8th day of May, 2018.

  
\_\_\_\_\_  
Notary Public

JESSICA VELLANO  
NOTARY PUBLIC - STATE OF NEW YORK  
No. 1VE6053483  
Qualified in Rensselaer County  
My Commission Expires January 08, 2019

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

UNITED STATES OF AMERICA

(b) County of Residence of First Listed Plaintiff Albany  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)  
Tamara Thomson, Assistant U.S. Attorney (315) 448-0672  
United States Attorney's Office, 100 South Clinton Street  
Syracuse, New York 13261

**DEFENDANTS**

\$15,290.00 in U.S. Currency

County of Residence of First Listed Defendant Greene  
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE  
LAND INVOLVED.

Attorneys (If Known)  
Trevor Hannigan, Esq., 311 State Street, Albany, New York 12210  
(518)729-5211

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☒ 1 U.S. Government Plaintiff  
☐ 2 U.S. Government Defendant  
☐ 3 Federal Question (U.S. Government Not a Party)  
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |  | PTF                        | DEF                        |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <b>PERSONAL INJURY</b> <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input checked="" type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other <b>LABOR</b> <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act <b>IMMIGRATION</b> <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 463 Habeas Corpus - Alien Detainee <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights <b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition			

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☐ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

21USC 881

Brief description of cause:

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☐ No**VIII. RELATED CASE(S) IF ANY**

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

05/08/2018

s/Tamara B. Thomson

**FOR OFFICE USE ONLY**

RECEIPT # \_\_\_\_\_ AMOUNT Waived APPLYING IFP \_\_\_\_\_ JUDGE TJM MAG. JUDGE CFH